

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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THE OHIO CASUALTY INSURANCE
COMPANY,

Plaintiff,

v.

TRAVIS BRANDT, *et al.*,

Defendants.

Case No. 3:23-cv-00502-MMD-CLB

ORDER

I. SUMMARY

Plaintiff The Ohio Casualty Insurance Company sued Defendants Travis Brandt, Christina Brandt, Pinnacle Grinding and Grooving, LLC, and Sierra Pacific Equipment, LLC to recover money Plaintiff was forced to spend to honor Performance Bonds and Payment Bonds Nos. 070210887 ("Travis County Bond") and 070218029 ("Johnson County Bond") after Defendants failed to satisfactorily complete two public works projects in Texas. (ECF No. 1.) Before the Court is Plaintiff's motion for summary judgment. (ECF No. 23 ("Motion").) As further explained below, the Court will grant the Motion as to all Defendants except for Pinnacle, which has filed for bankruptcy, because Plaintiff has shown it is entitled to summary judgment and Defendants have not substantively opposed the Motion.

II. BACKGROUND

The Court first describes the pertinent factual background, and then describes the limited procedural history pertinent to appropriate resolution of the Motion.

A. Factual Background

Plaintiff issued the Travis County Bond and Johnson County Bond as a surety to guarantee Defendants' performance on public works projects that Defendants contracted

1 to complete for the State of Texas. (ECF No. 23 at 5.) Defendants entered into a general
 2 indemnity agreement with Plaintiff requiring them to indemnify and hold harmless Plaintiff
 3 for any losses Plaintiff incurred arising from the Bonds. (*Id.* at 5-6; *see also id.* at 26-27,
 4 37-43.) Plaintiff incurred losses of \$211,710.78 as to the Travis County Bond and
 5 \$248,437.61 as to the Johnson County Bond. (*Id.* at 29.) Defendants were required to
 6 repay these amounts to Plaintiff under the general indemnity agreement but have not. (*Id.*
 7 at 29.) At the time Plaintiff filed its Motion, it had incurred \$12,059.80 in attorneys' fees
 8 and costs in this lawsuit. (*Id.* at 30.) By that same time, Plaintiff had incurred \$27,913.90
 9 in other expenses, and \$32,596.20 in interest had accrued on the sums Defendants owed
 10 Plaintiff. (*Id.*)

11 **B. Procedural History**

12 Plaintiff filed this case in October 2023. (ECF No. 1.) Defendants answered in
 13 November 2023. (ECF No. 8.) Defendants' attorneys from the law firm Maupin, Cox, and
 14 LeGoy signed the answer on Defendants' behalf. (*Id.* at 5.) In the end of January 2024,
 15 Maupin, Cox, and LeGoy moved to withdraw as counsel for Defendants Travis Brandt
 16 and Christina Brandt. (ECF No. 18.) United States Magistrate Judge Carla Baldwin
 17 granted that motion on February 9, 2024. (ECF No. 19.) Thus, at that time, the Brandts
 18 began proceeding pro se.

19 Meanwhile, Pinnacle filed for bankruptcy protection on February 1, 2024. (ECF No.
 20 23 at 117-176.)¹ Plaintiff filed a proof of claim in that proceeding on February 15, 2024.
 21 (*Id.* at 177-190.)

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23
 24 ¹Plaintiff asks the Court to take judicial notice of the fact that Pinnacle filed this
 25 petition. (ECF No. 23 at 4-5.) The Court grants Plaintiff's request and takes judicial notice
 26 of the fact that Pinnacle filed for bankruptcy because that proceeding is related to this
 27 one. *See Bell v. Wilmott Storage Servs., LLC*, 12 F.4th 1065, 1069 n.3 (9th Cir. 2021)
 28 (taking judicial notice of a related copyright case); *Glassey v. Amano Corp.*, No. C-05-
 01604RMW, 2006 WL 889519, at *1 (N.D. Cal. Mar. 31, 2006), *aff'd*, 285 F. App'x 426
 (9th Cir. 2008) (taking judicial notice of prior proceedings between the parties "before the
 bankruptcy court and the California Superior Court" because they directly related to the
 claims in that case). The Court further takes judicial notice of the fact that bankruptcy
 case is currently open. *See In re Pinnacle Grinding and Grooving*, Case. No. 24-50103-
 hlb (Bankr. D. Nev. Filed Feb. 1, 2024).

1 Plaintiff filed its Motion in June 2024. (ECF No. 23.) Attorneys from the law firm
2 Maupin, Cox, and LeGoy timely filed a response to the Motion on behalf of Pinnacle and
3 Sierra Pacific stating that they were unable to prepare an effective response to the Motion
4 because the Brandts, the sole managers of those two entities, indicated they did not wish
5 Maupin, Cox, and LeGoy to continue representing Pinnacle and Sierra Pacific but would
6 not tell the attorneys whether they had secured replacement counsel. (ECF No. 25.) In
7 October 2024, Plaintiff filed a notice of non-opposition letting the Court know that the
8 Brandts never responded to the Motion, and highlighting how Sierra Pacific's response
9 was effectively a non-response. (ECF No. 27.) "Accordingly, [Plaintiff] requests the Court
10 grant [Plaintiff's] Motion for Summary Judgment Against Defendants Travis Brandt,
11 Christina Brandt, and Sierra Pacific Equipment LLC." (*Id.* at 2.)

12 **III. DISCUSSION**

13 The fact that Plaintiff is not requesting summary judgment against Pinnacle reflects
14 the undisputed facts that Pinnacle filed for bankruptcy protection and that case is currently
15 open. (ECF Nos. 23 at 4-5, 25 at 2.) *See also In re Pinnacle Grinding and Grooving*, Case.
16 No. 24-50103-hlb (Bankr. D. Nev. Filed Feb. 1, 2024) (indicating the case is still open
17 from a review of the docket). The automatic stay accordingly applies as to Pinnacle, and
18 the Court cannot enter judgment against Pinnacle at this time. *See, e.g., Hillis Motors,*
19 *Inc. v. Hawaii Auto. Dealers' Ass'n*, 997 F.2d 581, 585 (9th Cir. 1993) (explaining that
20 filing a bankruptcy petition creates a broad, automatic stay, which causes, "an immediate
21 freeze of the status quo by precluding and nullifying post-petition actions, judicial or
22 nonjudicial, in nonbankruptcy fora against the debtor or affecting the property of the
23 estate." (citation omitted)).

24 However, Plaintiff has shown it is entitled to summary judgment against the
25 Brandts and Sierra Pacific. *See Zoslaw v. MCA Distrib. Corp.*, 1, 883 (9th Cir. 1982)
26 (stating that the moving party bears the burden of showing that there are no genuine
27 issues of material fact). The Brandts signed the general indemnity agreement with the
28 Surety, defined as any member of the Liberty Mutual Group, both individually and on

1 behalf of Sierra Pacific. (ECF No. 23 at 37-38, 41-42.) Plaintiff is a member of Liberty
2 Mutual Group. (*Id.* at 24.) Plaintiff received claims against the Travis County Bond and
3 Johnson County Bond and paid them. (*Id.* at 27-29.) Plaintiff accordingly incurred losses
4 covered by the general indemnity agreement between it, Sierra Pacific, and the Brandts.
5 (*Id.* at 26-29.) They have not repaid Plaintiff for these losses, though they were required
6 to under the general indemnity agreement. (*Id.* at 29.)

7 The general indemnity agreement Sierra Pacific and the Brandts signed is
8 enforceable against them. See *Transamerica Premier Ins. Co. v. Nelson*, 878 P.2d 314,
9 317 (Nev. 1994); see also *Travelers Cas. & Sur. Co. of Am. v. Big Town Mech., LLC*, No.
10 2:12-CV-02072-APG, 2013 WL 5818601, at *3 (D. Nev. Oct. 8, 2013). The declaration
11 from Jeff Olson Plaintiff attached to the Motion is prima facie evidence of the amount of
12 Plaintiff's losses. See *id.* (See also ECF No. 23 at 23-31.) Neither the Brandts nor Sierra
13 Pacific proffered any competing evidence suggesting that Plaintiff's proffered loss
14 amounts are incorrect. See *supra*. And Plaintiff's losses that the Brandts and Sierra
15 Pacific must now repay include attorneys' fees and costs. See *Transamerica Premier Ins.*
16 *Co.*, 878 P.2d at 317-18.

17 The Court accordingly finds that Plaintiff is entitled to summary judgment against
18 Defendants Travis Brandt, Christina Brandt, and Sierra Pacific Equipment, LLC. Those
19 Defendants owe Plaintiff the principal amount of \$460,148.39, expenses of \$27,913.90,
20 together with incurred attorneys' fees and costs of \$12,059.80, which continue to be
21 incurred, plus prejudgment interest of \$32,596.20 with the daily rate as specified at ECF
22 No. 23 at 21 until judgment is entered, and post-judgment interest accruing at the legal
23 rate, until paid in full.

24 **IV. CONCLUSION**


25 The Court notes that the parties made several arguments and cited to several
26 cases not discussed above. The Court has reviewed these arguments and cases and
27 determines that they do not warrant discussion as they do not affect the outcome of the
28 motion before the Court.

1 It is therefore ordered that Plaintiff's motion for summary judgment (ECF No. 23)
2 is granted as specified herein.

3 It is further ordered that Plaintiff's claims against Pinnacle are stayed and Plaintiff
4 may seek to reopen the case after the bankruptcy stay is lifted.

5 The Clerk of Court is directed to enter judgment accordingly—in Plaintiff's favor—
6 and close this case.

7 DATED THIS 22nd Day of January 2025.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE